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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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Antonio P. Avagliano

: CASE NO.: 17-23461

Debtor(s)

: CHAPTER: 13

: HON. JUDGE.:

: CHRISTINE M. GRAVELLE

: HEARING DATE:

: NOVEMBER 1, 2017 @ 9:00

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**MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY REGARDING REAL PROPERTY**

Madison Management Services LLC as servicer for Rehabitats LLC, (“Movant”) hereby moves this Court, pursuant to 11 U.S.C. 362(d), for relief from the automatic stay with respect to certain real property of the Debtor having an address of 6 Nottingham Road, Manalapan, NJ 07726, (the “Property”), for all purposes allowed by law, the Note (defined below), the Mortgage (defined below), and applicable law. In support of this Motion, Movant respectfully states:

**FACTUAL HISTORY**

1. A Petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor on June 30, 2017.

2. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$30,500.00 (the “Note”). A copy of the Note is attached hereto as **Exhibit A**.

3. Pursuant to the certain Mortgage (the “Mortgage”), all obligations (collectively, the “Obligations”) of the Debtor under and with respect to the Note and Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as **Exhibit B**.

4. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to that certain assignment of Mortgage, a copy of which is attached hereto as **Exhibit C**.

5. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$850.00 in legal fees and \$181.00 in filing costs.

**LEGAL ARGUMENT**

6. Pursuant to 11 U.S.C. §362 (d)(1), the court shall enter an order granting a secured creditor relief from the automatic stay for cause “including the lack of adequate protection of an interest in property of such party and interest.”

7. Specifically, courts have found cause for the granting of relief from an automatic stay where the debtor has failed to make post-petition mortgage payments as they become due. In Re Michael Lancelot Taylor, 151 B.R. 646,648 (Bankr. E.D.N.Y. 1993).

8. As is shown in attached **Exhibit D**, Certification RE Post-Petition Payment History the Debtor(s) is/are in post-petition default for a total of \$894.94

9. Oral argument is waived.

**WHEREFORE**, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by law, the Note, the Mortgage and applicable law, including but not limited to allowing Movant and any successor or assigns to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to another case under any other chapter of Title 11 of the United States Code.

3. For such other relief as the Court deems proper.

Dated: New York, NY  
September 13, 2017

By: /s/ Adam J. Friedman  
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